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EPA Responds to Spokane Tribe's Questions - Part One

In late April 2000, EPA held a meeting at the Spokane Tribal Longhouse to talk about Midnite Mine and present the initial results of the 1999 sampling. The Agency for Toxic Substances and Disease Registry (ATSDR - a federal health agency) presented information on radioactivity and health. At the conclusion of the meeting, Tribal and community members requested that EPA follow up with responses to their questions and input.

The following is the first part of a two part series of questions and answers to fulfill this request. The second part will be printed in next month's *Rawhide*. If you have any additional questions or concerns about this article, please contact Elly Hale, EPA Project Manager, (206) 553-1215 or Debra Packard, Community Involvement Coordinator, (206) 553-0247. For issues outside EPA's authority, we have provided contact names and numbers in the text below.

1. Members of the Spokane Tribe have a unique relationship with the land at this site. Is the feedback received from the community and the Tribal government being considered in its cultural context?

The EPA project staff are committed to trying to understand these issues in their cultural context. EPA is working closely with the Spokane Tribe, recognizing a government to government relationship, and is nearly finished with a Memorandum of Agreement which outlines relationships, expectations, and commitments during the Superfund process at Midnite Mine. EPA will continue to hold public meetings where individuals in the community can provide input and participate in the Superfund process.

EPA seeks to understand the community's perspective. Our tribal office offers training, workshops, and guidance for EPA employees to help us recognize and work with the differences between non-Indian and Indian values, history, and culture. We also acknowledge and respect differences between Indian cultures.

- 2. All the concerns raised at this meeting have been raised previously, either at public meetings with EPA or the Agency for Toxic Substances and Disease Registry (ATSDR) or EPA/Tribal Department of Natural Resource (DNR) meetings. Is the community being heard? The community needs some assurance that their input is being considered.**

EPA works to resolve questions that can be resolved as quickly and thoroughly as possible. However, EPA may not be able to address all of the concerns raised. We will try to be clear about what questions or concerns require more time, information, or agency coordination -- as well as those which are beyond EPA's role or are not possible to resolve. EPA will continue to use fact sheets, public meetings, and the *Rawhide* to keep the community informed. We are always available by phone, e-mail, or in person as additional questions or concerns arise.

- 3. Who can help the community address concerns about former employees and their exposure to site contamination during mining operations?**

EPA recognizes that former mine workers at Midnite may have health concerns due to exposure to radioactive materials at the mine. Former mine workers should make a point of telling their health care provider about their individual exposures.

In some cases, it is also appropriate to look for evidence of health impacts on former mine workers as a group, in what is called an epidemiological study. The ATSDR and/or the Indian Health Service may be able to use existing health information to determine whether a pattern of effects is observable. Individuals or the Tribal government can work with these health agencies to determine whether such work is needed.

EPA may be able to offer assistance by providing site data or information. Otherwise, this type of evaluation -- related to concerns about past exposures -- is not within EPA's direct authority. EPA's work will focus on what must be done to make the mine safe in the future.

All public agencies must work within the framework of their authority, available information, and the privacy of individual medical records.

- 4. Employees may have been exposed to contaminated water from a domestic well at the mine which provided water for on-site residential trailers. Has this well been tested? Can EPA obtain the data from Dawn?**

The well, now called GW-24, is located near the mine buildings. It was tested at least once during mine operations and continues to be sampled as part of monitoring work Dawn agreed to do. After the April 26 public meeting, EPA spoke with a Dawn representative and requested the data from well sampling. Dawn has agreed to provide the data to EPA. Interested parties can contact the EPA project manager for a copy. (See the end of this fact sheet)

5. Is there a 25-year limit on the company's requirement to preserve employee records (records of their activities on the job which may indicate levels of exposure to individuals)? Can EPA obtain the records on behalf of the employees?

According to the Occupational Safety and Health Act (OSHA section 1910.1020), employers are required to hold records for the duration of employment plus 30 years, except health insurance claims and certain one-time first aid records. They are also required to preserve workplace monitoring records for 1 year, provided documentation of sampling methods and results are preserved for 30 years.

EPA discussed this matter with Dawn. Because of the confidentiality of health records, employees of Dawn should contact Dawn directly, in writing, to request this information.

It is important to note that many of the mine workers were not employed by Dawn, but by contractors to Dawn -- including mining and trucking companies. Former employees of these companies should contact them directly.

6. Past mine employees need to know what they were exposed to and at what levels. For example, what health effects are associated with eating lunch on ore piles or in shacks where ore samples were stored?

Employees who may have been exposed are understandably concerned about what health effects could result. However, EPA is not planning to reconstruct past workplace conditions and exposures for a risk assessment.

Risk assessment is generally used to estimate future risks so that these can be minimized. Even if it were possible to reconstruct the exact exposures that occurred during mine operations, a risk assessment cannot tell you whether an individual will have a health effect. It will merely estimate the mathematical "probability" of those health effects occurring. For this reason, regular health checks are recommended.

EPA has data about types and levels of radiation currently at the mine. Current conditions are probably similar to past conditions, except that more dust was probably suspended in the air during active mining. Using this data, former workers can talk to ATSDR, the Indian Health Service, or their individual health care provider about the ways they may have been exposed (for example, inhalation, ingestion, and direct radiation exposure). ATSDR can help by providing you or your doctor with information about radiation-related health effects to watch for.

Former workers may be interested in what worker protection practices are currently required for uranium mines. Information about those requirements can be obtained from the Mining Safety and Health Administration of the U.S. Department of Labor and from the Nuclear Regulatory Commission (NRC).

Again, EPA's goal at Midnite Mine is to develop a cleanup decision. To do so, EPA looks at the future risk to humans and the environment if no action is taken. This allows EPA to determine whether cleanup is necessary and to compare different cleanup alternatives at the site.

7. In 1997, the combination of rain and rapidly melting snow caused an overflow of the West Drainage seep collection system. Fisheries workers were in Blue Creek catching spawners during that period. What levels of contamination were they exposed to? What is their risk?

EPA is unable to estimate the risk to the workers in Blue Creek because this is a past exposure. Fisheries workers concerned about potential health effects from past exposures can consult with ATSDR about how best to monitor their health.

Generally speaking, however, drinking the water, inhaling radon released from the water, and receiving direct exposure to radiation are some of the exposure pathways that should be considered. But it seems likely that the risk in this case is quite low, based on the water quality data collected by the tribe during the overflow, the likely dilution of the mine drainage water with heavy runoff from other drainages, and the short-term exposure.

8. Many people used material from the mine to pave driveways and do other types of construction. Because this material may be present throughout the reservation, what risks exist today?

With the assistance of the Spokane Tribe Department of Natural

Resources, EPA is seeking information from the community about the use of mine materials outside the site. The only way we can evaluate this risk and determine whether further action is needed is if we know where the material is, how much is being used, and for what purpose.

If you know someone who has used or is using material from the mine, please contact Deborah Abrahamson of the Spokane Tribe Department of Natural Resources (509/258-9161).

9. What risks exist from housing and materials from Uranium City that are now on the reservation?

Uranium City was associated with the Dawn Mill operations. EPA understands that the Spokane Tribe is reviewing information about where the houses and materials initially built near the mill may have ended up. This information will help EPA assess its role and what further actions are appropriate.

10. How is EPA identifying exposure pathways for its risk assessment? Will EPA use all data sources, including oral histories from witnesses?

EPA is looking at the ways people in the community could be exposed to site contaminants today and in the future. We want to select the best possible cleanup plan to provide long-term protection to humans and the environment. We are consulting with the Tribe and community members to ensure that we consider all significant pathways. Information about traditional cultural uses of plants, wildlife, and natural resources will be incorporated into our assessment of future risks.

We recognize that past exposures -- such as mine worker exposures -- may be important for tribal members to be aware of due to possible health effects. However, EPA will not consider past exposure in its assessment process. ATSDR or another health agency may be able to evaluate community health impacts, and oral histories from elders may be an important part of this evaluation.

EPA encourages the community to gather oral history as it will serve as a record for future generations. In addition to the immediate benefit for those directly exposed, this first hand information will document part of the Tribe's history related to Midnite Mine's development and operation.

11. What agency is responsible for gathering and assembling all of the information gathered and generated by the cleanup of Midnite Mine?

Currently, EPA is the lead agency for the Superfund work at Midnite Mine and for the National Pollution Discharge Emission System (NPDES) permit governing water treatment at the mine. The permit specifies, among other things, how clean the water must be when it leaves the treatment system.

A number of other public agencies are also involved in activities at Midnite Mine. While it might be simpler to have fewer agencies at work, each must operate under the laws that determine its specific responsibilities and authorities. The agencies have been coordinating extensively to ensure that site information is available to all.

EPA works closely with the Washington Department of Health, which is charged with licensing the water treatment system at the mine due to the nuclear materials present. It regulates the waste generated by the treatment process and the safety requirements for the treatment system.

EPA also coordinates with the U.S. Department of the Interior Bureau of Land Management (BLM). BLM, the last of several agencies charged with managing the mine lease, retains certain authorities under the lease. In addition, BLM conducted and oversaw site studies that EPA hopes to use.

The Bureau of Indian Affairs (BIA), also part of the U.S. Department of the Interior, negotiates leases between the mining company, the Spokane Tribe, and individual allottees.

Along with the Spokane Tribe, several agencies of the Department of Interior (including the U.S. Fish and Wildlife Service, BIA, and others) may become involved as Natural Resource Trustees, who can seek restoration for damage to the resources they protect.

Although EPA is currently the lead agency for cleanup or reclamation at Midnite Mine, BLM held this role for several years, seeking to reclaim the mine through its lease management role and under the National Environmental Protection Act (NEPA). Despite the BLM's progress in studies of the mine, the mining companies were not willing to commit to reclamation in a binding agreement acceptable to the government. As a result, the agencies agreed that EPA should use CERCLA (the law that created Superfund) to ensure that the studies and cleanup work would be completed. EPA is working with all the agencies to ensure that it has the information necessary to support a cleanup decision.

Using money in the Superfund, EPA can complete the cleanup work itself and recover its costs later. Superfund authorities can also be used to require the mining companies to do work, either under an agreement or with a government order.

12. The jurisdictional distinctions between the cleanup at Midnite Mine and the cleanup at the Dawn Mill are confusing. Which agencies do what, and why?

EPA and the other public agencies don't usually determine their areas of jurisdiction -- this is defined for them by laws and regulations. In some cases, several laws overlap, which means that agencies must work together to decide who will do the work and under what legal authority. As described above, the lead for cleanup at Midnite Mine recently passed from BLM to EPA.

Cleanup at Dawn Mill, on the other hand, is specifically covered by the Uranium Mill Tailings Recovery and Control Act (UMTRCA). This law is implemented by the Nuclear Regulatory Commission, except in states where the federal government has determined that the state can implement the law effectively. Since Washington is such a state, the Washington Department of Health (DOH) is the lead for cleanup at the mill. EPA could also use CERCLA if the government were to conclude that sufficient progress was not being made. However, EPA believes that mill reclamation is moving forward and that Superfund authorities are not needed at this time.

13. When EPA proposed the mine to the National Priorities List to become a Superfund site, it did not limit the area geographically. Is EPA now purposefully excluding the mill? Why?

The Midnite Mine Superfund site does not formally exclude the Mill. However, EPA is not actively investigating this area, nor do we expect to include it in the Midnite Mine cleanup. Cleanup at the Dawn Mill is being addressed by the Washington Department of Health. The site boundaries could shrink or expand as we learn more about the extent of contamination and the associated human health and environmental risk.

14. The community perceives the mill and the mine as one site -- not two -- because both seem to present the same health threat and therefore one problem. Why does the Superfund designation only apply to the mine, not

the mill?

Both the Dawn Mill and Midnite Mine pose environmental threats for the Spokane Tribe. However, the mill and mine are 25 miles apart, in different drainage basins. The Dawn Mill may affect Chamokane Creek, while Midnite may affect Blue Creek. These two sites do not share a strong environmental connection such as common groundwater flow, wind, or surface water. In fact, the only link may be that ore was transported from trucks on the way from the mine to the mill, and over the years ore spilled onto the roadside. In addition, there are jurisdictional boundaries, as described above.

We believe that DOH is moving toward the same goal at the Mill as EPA is in its efforts to clean up Midnite Mine. Both seek to protect human health and the environment. EPA believes that trying to combine the mill and the mine as one Superfund site would actually slow down efforts to complete cleanup at both sites.

This arrangement is not unusual. Even at the Sherwood Mine, where the mine and mill were side by side, two different agencies had responsibility for cleanup.

15. If EPA is dealing with Midnite Mine, and the Washington State Department of Health is dealing with Dawn Mill, who is dealing with what is in between?

EPA understands that the community is concerned about two types of risks that exist between the major cleanup sites. These concerns are: (1) the risk from spilled ore along the road; and (2) the risk of water treatment sludge, or filtercake, if it is spilled.

EPA has collected information about spilled ore along the haul road and plans to consider this in assessing risk and developing cleanup options. We have used radiation scanning equipment to find areas on the reservation with higher radioactivity than others, and we are evaluating further action.

Further action could include collecting more specific information about the amount of spilled ore, whether spilled ore might have affected streams or wells, and how people could be exposed to it. EPA will be communicating with the Spokane Tribe and the affected community as these decisions are made.

The Washington State Department of Health (DOH) is responsible for overseeing the transportation of water treatment sludge to the mill for processing. The sludge contains enough radioactive material to be regulated

under NRC rules, which DOH implements. But it does not contain enough that U.S. Department of Transportation requirements apply to its transport.

According to DOH, Dawn is required to cover the trucks with a tarp, teach drivers about safety, drive at a safe speed, and be prepared to respond to a spill. Dawn truck drivers are instructed to not exceed 20 miles per hour on the haul roads, and both Dawn and DOH periodically inspect to make sure safety precautions are taken.

MORE INFORMATION

Additional questions and answers related to road dust, access to the site, the safety of water treatment sludge, and results of last summer's road survey will be printed in next month's *Rawhide*.

Documents related to the Midnite Mine Superfund site and the Remedial Investigation and Feasibility Study currently underway can be found at the following locations:

The Spokane Tribe Natural Resources Department
Wellpinit, WA

or

EPA Region 10 Records Center
Seventh Floor
1200 Sixth Avenue
Seattle, WA 98101
(206) 553-1200

If you have any questions or concerns, please feel free to contact EPA.

Elly Hale, EPA Project Manager
(206) 553-1215 / hale.ellie@epa.gov

or

Debra Packard, EPA Community Involvement Coordinator
(206) 553-0247 / packard.debra@epa.gov

EPA can also be reached by calling toll-free

1-800-424-4372

To ensure effective communication with everyone, additional services can be made available to persons with disabilities by contacting one of the numbers above.